

**MINUTES OF THE  
IDAHO STATE BOARD OF PHARMACY**

**DECEMBER 3, 2004**

**AMERITEL INN  
BOISE, IDAHO**

Chairman Frank Casabonne R.Ph. called the meeting to order at 9:00 A.M. Also in attendance were Board members Kitty Gurnsey; Mike Merrill R.Ph.; Marilyn Silcock Pharm D. and Dwayne Sheffler R.Ph. Also present were Richard Markuson, Executive Director; Fred Collings, Senior Investigator; Dustie Reyna, Assistant Investigator; Jan Atkinson, Senior Compliance Officer; Kent Nelson, Deputy Attorney General and Cheri Bush, Deputy Attorney General.

Mike Merrill made a motion to approve the minutes from the August 20, 2004 Board meeting as written. Kitty Gurnsey seconded the motion. Motion unanimously carried.

Regarding citation #1367 issued to Misty Hammond T-1146; Mike Merrill made a motion to fine Ms. Hammond \$25.00 and place a letter of reprimand in her file. Kitty Gurnsey seconded the motion. Dr. Silcock opposed the motion. Motion carried.

Regarding citation #1331 issued to London Reiber P5236; Mike Merrill made a motion to fine Mr. Reiber \$50.00 and place a letter of reprimand in his file. Kitty seconded the motion. Motion unanimously carried.

Regarding citation # 1284 issued to Paul Allen Frisk P3717; due to conflicting testimony given by Mr. Frisk's previous employer from Idaho Home Infusion, Ann Patterson, Mike Merrill made a motion to have Mr. Collings investigate the matter further and review the signed documentation that Ms. Patterson stated she had in her possession. Dwayne Sheffler seconded the motion. Motion unanimously carried and the citation was tabled for further consideration and review.

Regarding citation # 1285 issued to Paul Allen Frisk P3717; due to conflicting testimony given by Mr. Frisk's previous employer from Idaho Home Infusion, Grace Lawrence, Mike Merrill made a motion to have Mr. Collings investigate the matter further. Dwayne Sheffler seconded the motion. Motion unanimously carried and the citation was tabled for further consideration and review.

In the matter of Jason Jungert P5484; Mr. Jungert's attorney J.D. Merris was in attendance representing Mr. Jungert. Following Mr. Jungert's explanation for the filing of the Notice of Default of his August 20, 2004 Stipulation, Dr. Silcock made a motion to suspend Mr. Jungert's license to practice pharmacy for one year, extend his probation to five years and require him to follow all other terms of his original stipulation. Mike Merrill seconded the motion. Motion unanimously carried. Mr. Jungert's license to practice pharmacy was immediately suspended.

Rep. Loertscher appeared before the Board to voice his concerns over the restriction placed on assisted living facilities that prevents the facilities from faxing prescriptions directly to the pharmacies. Rep. Loertscher was concerned that by allowing the faxing from nursing homes it put an unfair restriction on the assisted living facilities and he felt that both types of facilities should be required to follow the same rules. Several pharmacists in Eastern Idaho had also voiced some concerns that they may no longer be allowed to contact the practitioner directly regarding a patient's prescription medications due to this pharmacy alert. Jan Atkinson, Senior Compliance Officer assured Rep. Loertscher that pharmacists were always encouraged to contact the practitioner whenever they have any questions or concerns regarding a patient's prescription medications and the faxing of medications to pharmacies should not affect that

process in any way. Further discussion on whether the Board would allow assisted living facilities to fax prescriptions directly to the pharmacy and/or under what circumstances it would be permitted was tabled until legislation rule & review when the topic was scheduled to be discussed.

Regarding citation # 1286 issued to Thomas Byers P3390; Nicki Salazar of Robert Salazar Inc. was in attendance to discuss the matter of the altered methadone prescriptions and the additional refills that had been added to prescriptions that were presented to Mr. Byers and subsequently filled by him at Corner Drug. Dr. Silcock requested that Mr. Collings further investigate the questionable filling procedures by Mr. Byers and made a motion to delay discussing the citation until Mr. Collings conducted a further review of these matters. Mike Merrill seconded the motion. Motion unanimously carried. Action on Mr. Byer's citation was delayed following further review of his filling practices.

Regarding citation # 1331 issued to Steven Stelter P4590; Mike Merrill made a motion to fine Mr. Stelter \$200.00 and place a letter of reprimand in his file. Dwayne Sheffler seconded the motion. Motion unanimously carried. The Board also requested that information on the Board action regarding this citation be sent to Mrs. Wortham, the child's mother who initially filed the complaint.

Regarding citation # 1369 issued to Shawn White P5584; Dwayne Sheffler made a motion to fine Mr. White \$100.00 and place a letter of reprimand in his file. Mike Merrill seconded the motion. Motion unanimously carried.

Regarding citation # 1370 issued to Jenny Ryan T1302; Dwayne Sheffler made a motion to fine Ms. Ryan \$100.00 and place a letter of reprimand in her file. Kitty Gurnsey seconded the motion. Motion unanimously carried.

In the matter of James Lance Clark, requesting approval of his application for an Extern/Intern registration based on his written explanation and further consideration of the circumstances surrounding his felony conviction filed in 1997 in Vancouver, WA. Mike Merrill made a motion to approve his application pending receipt of a letter from the Dean or Associate Dean of Student Services at Washington State University, College of Pharmacy, attesting to his character and good academic standing. Motion seconded by Dr. Silcock. Motion unanimously carried.

In the matter of Sara Beth Cummings T2745, motion by Mike Merrill to revoke Ms. Cummings technician registration due to her failure to appear for a scheduled UA and therefore violating her stipulation. Dr. Silcock seconded the motion. Motion unanimously carried. The Board staff was asked to make sure that the pharmacy that employed Ms. Cummings was also immediately notified of her registration revocation.

In the matter of Shawn Sorenson T2657, following the Order of Emergency Suspension and Respondent's failure to appear or otherwise defend, a Notice of Intent to Take Default was filed on November 16, 2004. A motion was made by Mike Merrill to uphold the Emergency Suspension of Mr. Sorenson's technician registration and to suspend his technician registration indefinitely. Motion seconded by Kitty Gurnsey. Motion unanimously carried.

In the matter of Lisa Clay T1398; based upon the Voluntary Surrender in Lieu of Formal Disciplinary Action a motion was made by Kitty Gurnsey to suspend Ms. Clay's technician registration indefinitely. Motion seconded by Mike Merrill. Motion unanimously carried.

In the matter of Keri Woodall P5409; Dr. Silcock made a motion to accept the Hearing Officer's recommendation that the Order of Emergency Suspension of Ms. Woodall's Idaho Pharmacist License P5409 and Controlled Substance Registration CS7847 be terminated immediately. In addition Dr. Silcock requested that her motion also include a directive to Mr. Collings to further review the medications that

appeared on Ms. Woodall's Toxicology Report on May 13, 2004 at the time of her arrest and determine if she had valid prescriptions for those medications. Motion seconded by Mike Merrill. Motion unanimously carried.

Dwayne Sheffler made a motion for the Idaho Board of Pharmacy to discontinue the "paper and pencil" law exam in the fall of 2005 and change over to the Multi-state Pharmacy Jurisprudence Exam (MPJE). Kitty Gurnsey seconded the motion. Dr. Silcock and Mike Merrill both opposed the motion. Chairman Frank Casabonne broke the tie vote by voting to approve the motion. Motion carried. Jan Atkinson and Mr. Markuson will continue to give the law review program for the ISU students each year in Pocatello to prepare them for the law exam and will continue to present the annual law program and pharmacy review for the ISU College of Pharmacy P1 students in November.

Kevin Reddish R.Ph. representing Reddish Pharmacy in Nampa, ID. asked the Board to review the pending remodel plans for his pharmacy and reconsider the mandatory board requirement for a lavatory facility adjoining or in the pharmacy. Mr. Reddish stated that the space available to them for the pharmacy remodel did not give him adequate room to add a restroom and he requested a one-time waiver of Board Rule 154.03 to allow them to utilize restroom facilities outside the immediate pharmacy area. Following further discussion the Board denied Mr. Reddish's request for a restroom waiver for their proposed pharmacy remodel.

During legislation and rule review the Board heard from Brian Elliott and other members of the Idaho Assisted Living Association (IDALA) who requested a moratorium on the pharmacy directive sent out to Idaho pharmacies on Nov. 9, 2004, which required the pharmacies to receive all faxed prescription orders directly from a practitioner's office, per Board Rule 161. Board member Mike Merrill stated that the assisted living facilities did not have 24 hour skilled nursing and most of the individuals working in those facilities should not be faxing patient prescriptions to the pharmacy in any capacity. Further points of discussion were the notable differences in the skilled nursing facilities and the assisted living facilities and the manner in which these prescriptions were obtained by the facilities from both the practitioners and the patients. Dr. Silcock made a motion to support the moratorium that Mr. Markuson had placed in effect and allow the faxing by these facilities to continue while this matter was being discussed. Dwayne Sheffler seconded the motion. Mike Merrill abstained from voting. Motion carried. Board Chairman Frank Casabonne offered to meet with Board staff, members of IDALA and Board counsel to determine whether this issue required new legislation or how the Board could solve the problem and make sure that the public safety issues were addressed.

Jo An Condie, representing the Idaho State Pharmacy Association asked the Board to review the possibility of temporary licensure for reciprocating pharmacists. The Board directed Mr. Markuson and Kent Nelson to work on a draft of proposed language that would outline specific criteria that must be in place in order to allow issuance of a temporary pharmacy license in Idaho.

During legislation and rule review Jim Francis, representing St. Luke's RMC asked the Board to allow St. Luke's to enter into a contractual agreement with a rural institutional facility in order to begin operating a Telepharmacy Pilot Project as authorized by Board Rule 261. Dwayne Sheffler made a motion to allow St. Luke's request. Dr. Silcock seconded the motion. Mike Merrill opposed the motion. Motion carried.

The Board discussed representation for the MPJE meeting scheduled for Jan. 20, 2005 through Jan. 23, 2005 in Scottsdale, Arizona to be hosted by NABP. Dwayne Sheffler, Frank Casabonne, Mick Markuson and Jan Atkinson will represent the Idaho Board and begin the law review process for implementing the MPJE in Idaho. The next Board meeting was scheduled for February 11, 2005 in Boise to allow time for Board members to review legislative issues regarding proposed rules.

Meeting adjourned.

Minutes respectfully submitted by Jan Atkinson.

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Vice-Chairman

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

\_\_\_\_\_  
Executive Director